

DISTRICT COURT OF THE VIRGIN ISLANDS

DIVISION OF ST. CROIX

BANCO POPULAR de PUERTO RICO,

Plaintiff,

1:09-cv-71

v.

**ALBERT JURGEN, MERCEDES E. JURGEN,
EMMERY MCNAIRY, BARBARA B.
MCNAIRY, JORGE M. CAREW, DE'NEAN
COLEMAN-CAREW, AILEEN G. YATES, and
LYNN R. JOSHUA,**

Defendants.

TO: Erik Woodbury, Esq.

ORDER DENYING PLAINTIFF'S MOTION FOR ENTRY OF DEFAULT

THIS MATTER is before the Court upon Plaintiffs' Motion For Entry of Default (Docket No. 22). The time for filing a response has expired.

Plaintiff seeks entry of default against Defendant Emmery McNairy. Plaintiff claims that a copy of the summons and complaint was served upon Defendant Emmery McNairy by serving "[h]is attorney in fact Albert Jorgen." Motion at 1.

While it is true that Fed. R. Civ. P. 4(e) allows service of process upon an individual by "delivering a copy of [the summons and complaint] to an agent authorized by

appointment or by law to receive service of process," it is not at all evident from Plaintiff's motion whether the instrument appointing Albert Jorgen as Emmery McNairy's attorney-in-fact includes within its scope the authorization for Albert Jorgen to receive service of process upon Emmery McNairy's behalf.

Accordingly, it is now hereby **ORDERED** that Plaintiff's Motion For Entry of Default (Docket No. 22) is **DENIED**.

ENTER:

Dated: June 9, 2010

/s/ George W. Cannon, Jr.
GEORGE W. CANNON, JR.
U.S. MAGISTRATE JUDGE